

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Case No. CR-91-220-D
)
JUAN CAROLS ANGULO-LOPEZ,)
)
Defendant.)

ORDER

Before the Court is Defendant Juan Carlos Angulo-Lopez's *pro se* Motion to Correct Sentence [Doc. No. 1252], filed January 11, 2012. The Motion requests relief from a criminal sentence but cites no statutory authority, which is necessary to this Court's exercise of jurisdiction.¹ Because the Motion challenges the constitutionality of Defendant's conviction and sentence, it may be brought under 28 U.S.C. § 2255.² However, this Court lacks jurisdiction to entertain a new § 2255 motion by Defendant because the case record shows he has previously sought § 2255 relief, which was denied on November 8, 2001. Thus, prior authorization from the court of appeals to file a second or successive motion is required. *See* 28 U.S.C. § 2255(h); 28 U.S.C. § 2244(b)(3)(A).

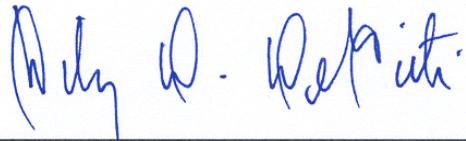
Because Defendant has not alleged a jurisdictional basis for his Motion, the Court finds that it should be denied without prejudice for lack of jurisdiction.

¹ See *United States v. Green*, 405 F.3d 1180, 1184 (10th Cir. 2005) (a district court may modify a criminal sentence only "where Congress has expressly granted the court jurisdiction to do so").

² See *Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir. 1996) ("The exclusive remedy for testing the validity of a judgment and sentence, unless it is inadequate or ineffective, is that provided for in 28 U.S.C. § 2255."); *see also United States v. Torres*, 282 F.3d 1241, 1246 (10th Cir. 2002) (petition for writ that challenged a conviction and sentence recharacterized as § 2255 motion).

IT IS THEREFORE ORDERED that Defendant's Motion [Doc. No. 1252] is DENIED without prejudice, without need for a response by the government.

IT IS SO ORDERED this 23rd day of January, 2012.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE